

Amendments to the Drawings:

The attached replacement and annotated sheet(s) of drawings includes changes to FIGS. 19-23 as follows.

FIGS. 19-23 have been amended to include the legend -- Prior Art --.

Attachment: Replacement Sheet
Annotated Sheet Showing Changes

REMARKS

The Office Action mailed June 28, 2005 has been carefully considered.

Reconsideration in view of the following remarks is respectfully requested.

Applicants are further grateful for the indication of allowability of claims 6-9, 11 and 13-16 subject to their re-writing in independent form to include all of the limitations of the base claim. Applicant respectfully declines to amend the claims but reserves the right to do so at a later date.

Claims 9 and 18 have been amended to correct typographical matters. No new matter has been added.

Drawings

The figures stand objected to because "Figures 19-23 should be designated by a legend such as -- Prior Art --". Figures 19-23 have been amended to include the legend. It is respectfully requested that this objection be withdrawn.

Claim Objections

Claim 9 stands objected to because "form" in line 3 should be "from". This objection is respectfully traversed. Claim 9 has been amended to correct the typographical matter. It is respectfully requested that this objection be withdrawn.

The 35 U.S.C. § 112, Second Paragraph Rejection

Claims 18-27 were rejected under 35 U.S.C. § 112, second paragraph, as allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter applicant regards as the invention. This objection is respectfully traversed.

The Office Action states that in “claim 18 line 1 which recite dependence upon ‘claim 2’ is not clear because claim 2 has been cancelled.” Claim 18 has been amended to depend upon claim 4. Accordingly it is respectfully requested that this rejection be withdrawn.

The 35 U.S.C. § 102 Rejection

Claims 4, 10 and 12 stand rejected under 35 U.S.C. § 102(b) as being allegedly anticipated by Kamoi et al. (USP 5,280,482). Claim 4 is an independent claim. This rejection is respectfully traversed.

According to the M.P.E.P., a claim is anticipated under 35 U.S.C. § 102(a), (b) and (e) only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.¹

The Office Action states, in relevant part:

Kamoi et al. disclose a datagram transfer system ... wherein an impact of said datagrams on network operation is evaluated by a traffic monitoring equipment according to traffic information on said datagrams, evaluation results are quantified, and quantified results are converted and are inserted in said header as a preference value (see col. 28 lines 48-68 which recite maintaining service quality when congestion occurs including the function of monitoring the amount of cells entering into the communication path and cells being marked at the header when the amount exceeds the described amount clearly anticipate the traffic monitoring equipment evaluating the impact of the datagrams on the network and inserting a

¹ Manual of Patent Examining Procedure (MPEP) § 2131. See also *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987).

preference value in the header) ... selecting priority datagrams to be transmitted successively in an ascending order of preference values from a low preference value to a high preference value so as to avoid traffic congestion and entering said priority datagrams in a buffer memory (see col. 34 lines 10-42 which recite the control device and cell accumulation measuring unit for detecting congestion and discarding low priority cells in the buffer memory using the threshold value clearly reads on the buffer enqueue control section for selecting priority datagrams to be transmitted to avoid congestion).

Applicant respectfully disagrees for the reasons, among others, discussed below.

Kamoi discloses “a traffic control system for an asynchronous transfer mode (ATM) exchange which receives a description of parameters of traffic upon reception of a request-to-call connection from one calling subscriber terminal to another subscriber terminal.” (Col. 1, lines 8-13). Kamoi utilizes a supervisory unit that “maintains the parameters (e.g. peak speed of data, average speed of data, burst ratio and so forth) described by the subscriber. The cells sent from the subscriber are input to the supervisory unit 211 on the input highway. The supervisory unit 211 is provided with a function for monitoring the amount of entering cells in a unit time ... and applying marking at the header of the cell when the entering cell amount exceeds the described amount.” (Col. 28, lines 52-61). Thus, the supervisory unit simply monitors the amount of entering cells, and does not provide for “wherein an impact of said datagrams on network operation is evaluated by a traffic monitoring equipment according to traffic information on said datagrams” as claimed in Claim 4.

Additionally, Kamoi teaches “the discard control unit 217 actuates the first cell discarding unit 212 for discarding the marked cells when the amount of data exceeds the threshold value X2.” (Col. 29, lines 12-15). Hence, the supervisory unit only applies marking at the header of the cell when the cell amount exceeds the described amount and

the mark applied at the header of the cell is a simple mark (e.g., “0”, “1”, etc.). In contrast, the claimed invention provides that the “evaluation results are quantified, and quantified results are converted and are inserted in said header as a preference value.” What is inserted in the header are the quantified results of the evaluation, and insertion of the datagrams in the buffer is controlled according to the size of this value. Kamoi does not teach or suggest the use of a preference value as claimed in Claim 4.

Furthermore, Kamoi discloses the use of “334 is empty address storing memory, 335 denotes a high priority cell address storage memory, 336 denotes a low priority cell address storage memory, and 337 denotes a selector. ... when the accumulated cell amount in the buffer memory exceeds a predetermined accumulation amount (threshold value), and when the arrival interval of the token for obtaining a right to read out, through the reading out multiplexing control line, is longer than a predetermined period, only low priority cells are discarded among the cells written in the buffer memory.” (Col. 34, lines 5-17). Hence, Kamoi writes the cells into the buffer memory with no relationship to the priority of the cells, and discards the low priority cells when the accumulated cell amount of the buffer memory exceeds the predetermined threshold. Kamoi is premised on carrying out periodic reading by cycling the tokens, and control is carried out which writes the inputted data into the buffer memory regardless of the priority of the cells.

In contrast, the claimed invention is not premised on periodic reading, but rather provides that control is carried out so as to select “priority datagrams to be transmitted successively in an ascending order of preference values from a low preference value to a high preference value so as to avoid traffic congestion and entering said priority datagrams in a buffer memory” as claimed in Claim 4

Since each and every element as set forth Claim 4 is not found, either expressly or inherently described, in Kamoi, it can not be said to anticipate the claimed invention. Accordingly, it is respectfully requested that this rejection be withdrawn.

As to dependent claims 10 and 12, the argument set forth above is equally applicable here. The base claims being allowable, the dependent claims must also be allowable. It is respectfully requested that this rejection be withdrawn.

Conclusion

It is believed that this Amendment places the above-identified patent application into condition for allowance. Early favorable consideration of this Amendment is earnestly solicited.

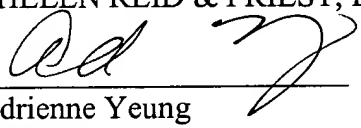
If, in the opinion of the Examiner, an interview would expedite the prosecution of this application, the Examiner is invited to call the undersigned attorney at the number indicated below.

Applicant respectfully requests that a timely Notice of Allowance be issued in this case. Please charge any additional required fee or credit any overpayment not otherwise paid or credited to our deposit account No. 50-1698.

Dated: September 18, 2005

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Respectfully submitted,
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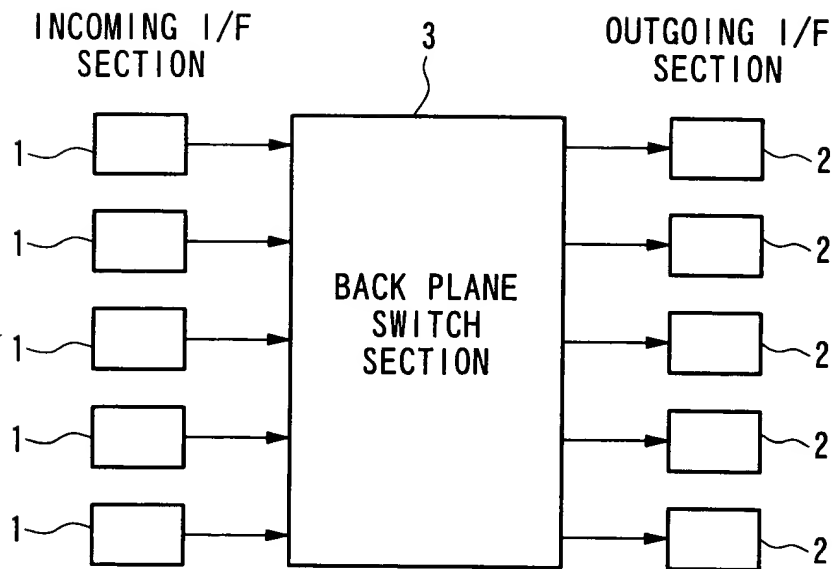

Adrienne Yeung
Reg. No. 44,000



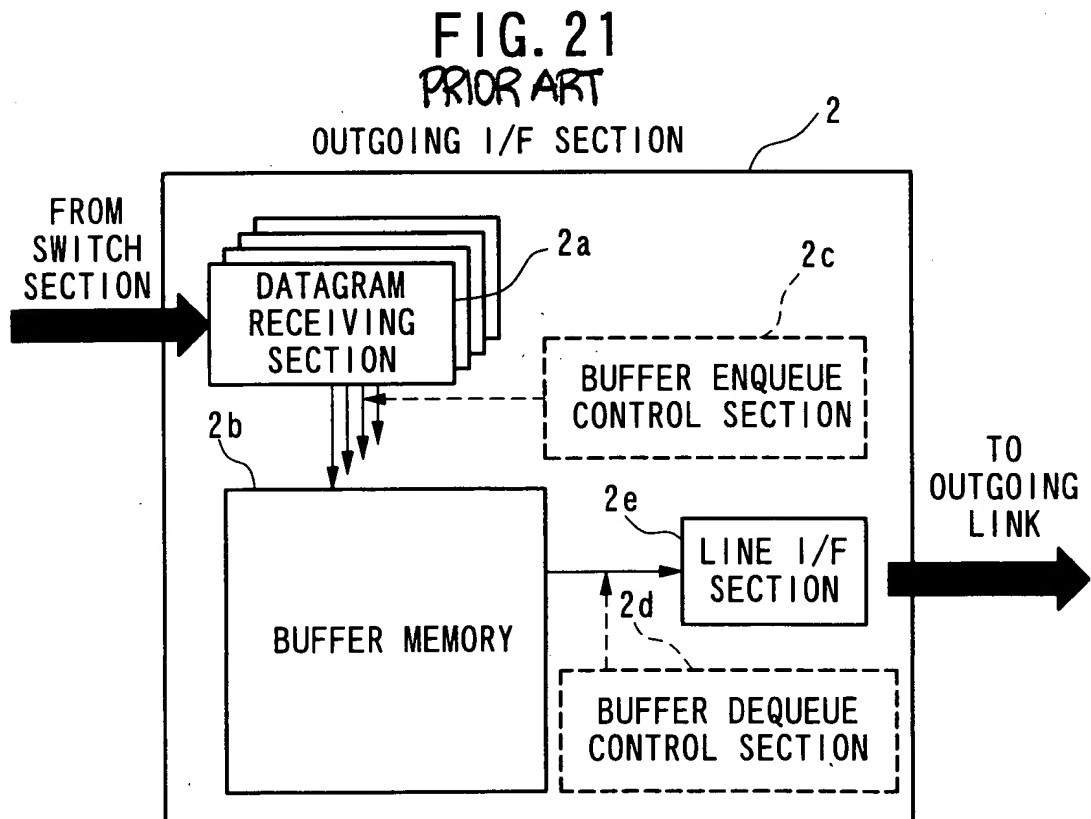
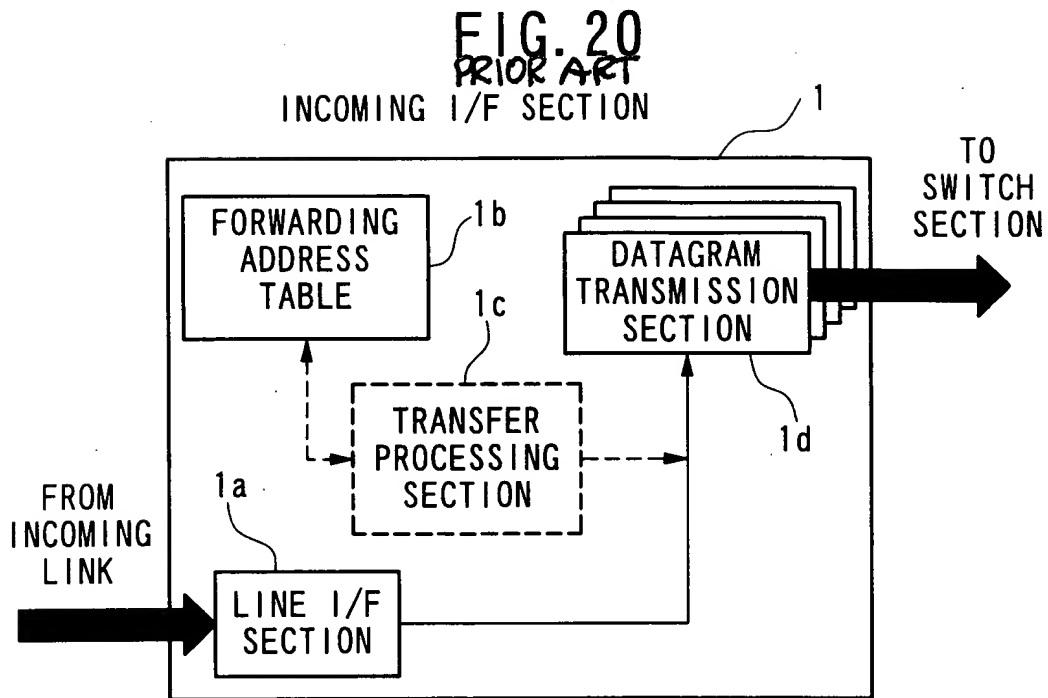
Thelen Reid & Priest – Robert E. Krebs
Serial No. 09/510,349
Filing Date: February 22, 2000
TRP Docket No.: 034620-049

ANNOTATED SHEET

FIG. 19
PRIOR ART

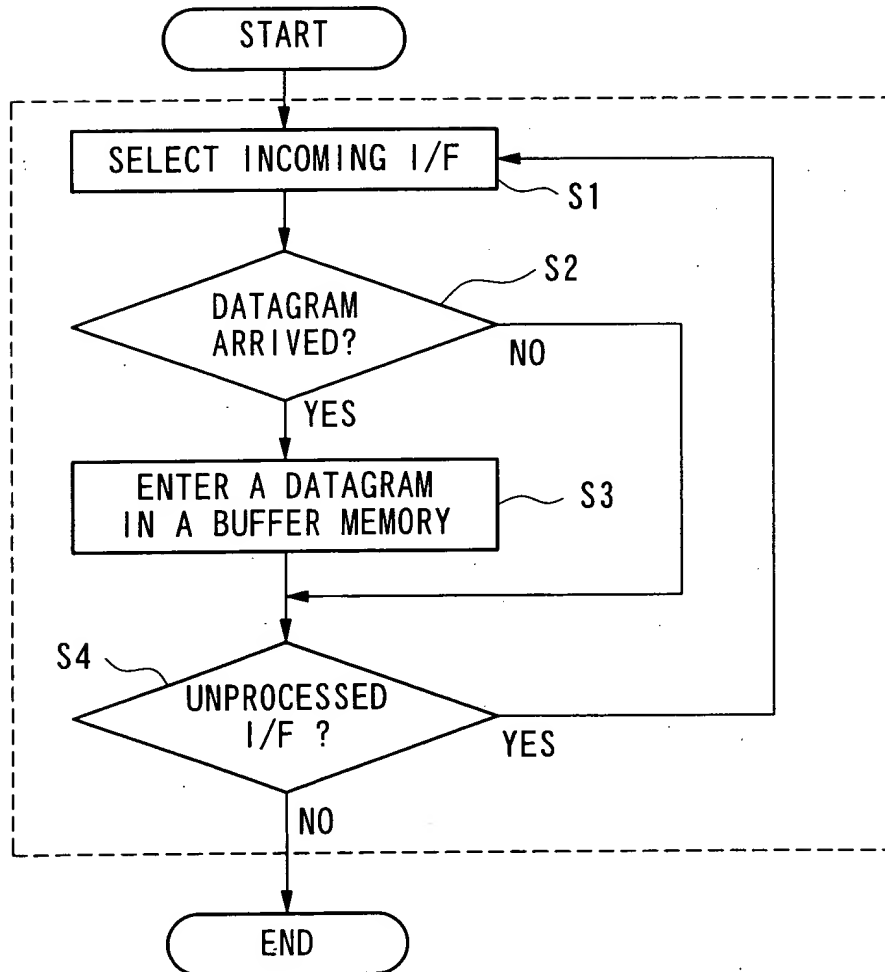


ANNOTATED SHEET



ANNOTATED SHEET

FIG. 22
PRIOR ART



ANNOTATED SHEET

FIG. 23
PRIOR ART

